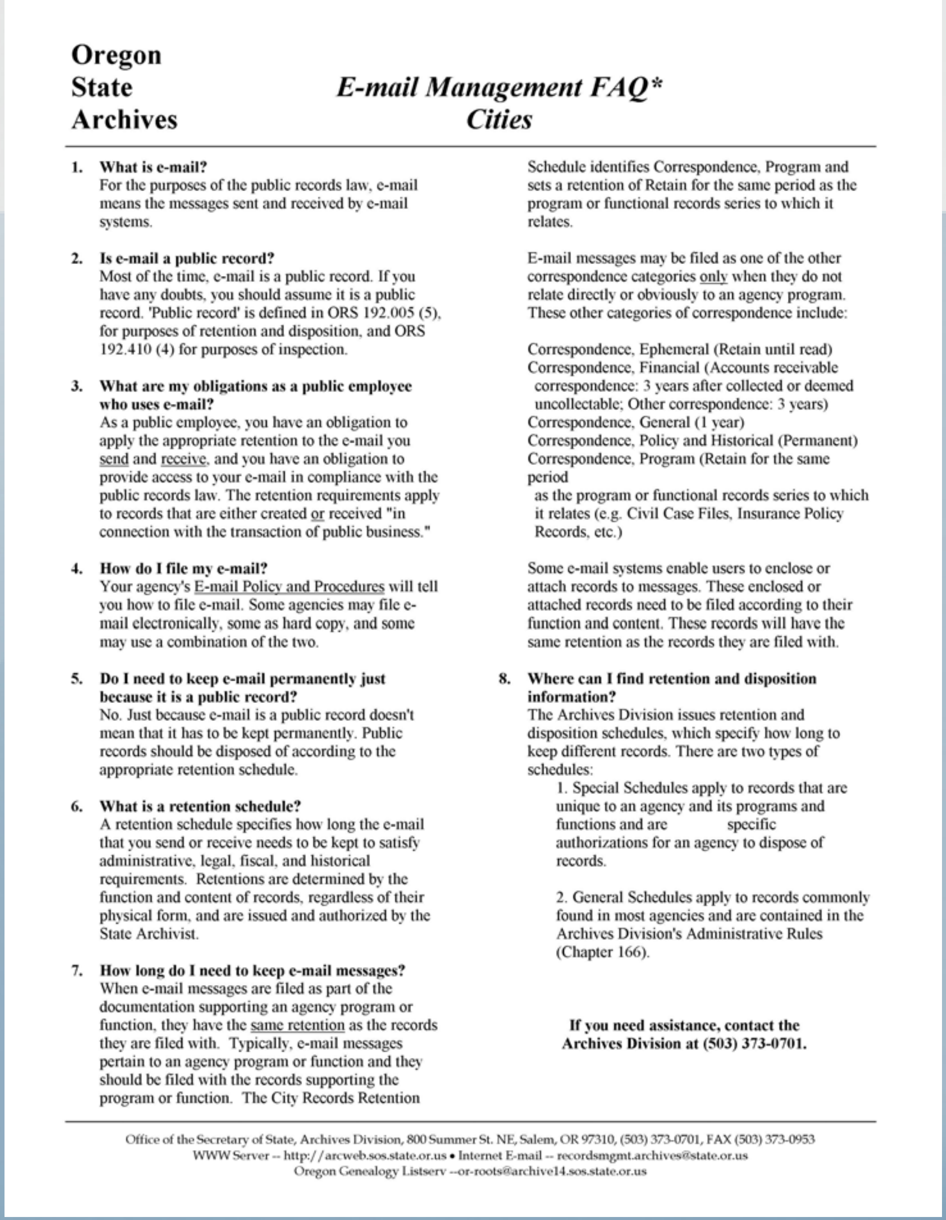
Electronic Records Management Oregon’s Way

RACO West 2005

June 28, 2005

Beginnings

- Began implementing e-records policies for the Secretary of State in late 1993
- Tried implementing statewide e-mail use, access & retention policies in 1995. Result:
  - Mass hysteria by agency IT folks to even think that e-mail was a public record and that it needed to be managed
  - Development of an e-mail Management FAQ



Oregon
State
Archives

E-mail Management FAQ*
Cities

1. **What is e-mail?**
   For the purposes of the public records law, e-mail means the messages sent and received by e-mail systems.

2. **Is e-mail a public record?**
   Most of the time, e-mail is a public record. If you have any doubts, you should assume it is a public record. 'Public record' is defined in ORS 192.005 (5), for purposes of retention and disposition, and ORS 192.410 (4) for purposes of inspection.

3. **What are my obligations as a public employee who uses e-mail?**
   As a public employee, you have an obligation to apply the appropriate retention to the e-mail you send and receive, and you have an obligation to provide access to your e-mail in compliance with the public records law. The retention requirements apply to records that are either created or received "in connection with the transaction of public business."

4. **How do I file my e-mail?**
   Your agency's E-mail Policy and Procedures will tell you how to file e-mail. Some agencies may file e-mail electronically, some as hard copy, and some may use a combination of the two.

5. **Do I need to keep e-mail permanently just because it is a public record?**
   No. Just because e-mail is a public record doesn't mean that it has to be kept permanently. Public records should be disposed of according to the appropriate retention schedule.

6. **What is a retention schedule?**
   A retention schedule specifies how long the e-mail that you send or receive needs to be kept to satisfy administrative, legal, fiscal, and historical requirements. Retentions are determined by the function and content of records, regardless of their physical form, and are issued and authorized by the State Archivist.

7. **How long do I need to keep e-mail messages?**
   When e-mail messages are filed as part of the documentation supporting an agency program or function, they have the same retention as the records they are filed with. Typically, e-mail messages pertain to an agency program or function and they should be filed with the records supporting the program or function. The City Records Retention Schedule identifies Correspondence, Program and sets a retention of Retain for the same period as the program or functional records series to which it relates.

   E-mail messages may be filed as one of the other correspondence categories only when they do not relate directly or obviously to an agency program. These other categories of correspondence include:

   Correspondence, Ephemeral (Retain until read)
   Correspondence, Financial (Accounts receivable correspondence: 3 years after collected or deemed uncollectable; Other correspondence: 3 years)
   Correspondence, General (1 year)
   Correspondence, Policy and Historical (Permanent)
   Correspondence, Program (Retain for the same period as the program or functional records series to which it relates (e.g. Civil Case Files, Insurance Policy Records, etc.)

   Some e-mail systems enable users to enclose or attach records to messages. These enclosed or attached records need to be filed according to their function and content. These records will have the same retention as the records they are filed with.

8. **Where can I find retention and disposition information?**
   The Archives Division issues retention and disposition schedules, which specify how long to keep different records. There are two types of schedules:
   1. Special Schedules apply to records that are unique to an agency and its programs and functions and are specific authorizations for an agency to dispose of records.

   2. General Schedules apply to records commonly found in most agencies and are contained in the Archives Division's Administrative Rules (Chapter 166).

If you need assistance, contact the Archives Division at (503) 373-0701.

Office of the Secretary of State, Archives Division, 800 Summer St. NE, Salem, OR 97310, (503) 373-0701, FAX (503) 373-0953
WWW Server -- http://arcweb.sos.state.or.us • Internet E-mail -- recordsmgmt.archives@state.or.us
Oregon Genealogy Listserv --or-roots@archive14.sos.state.or.us

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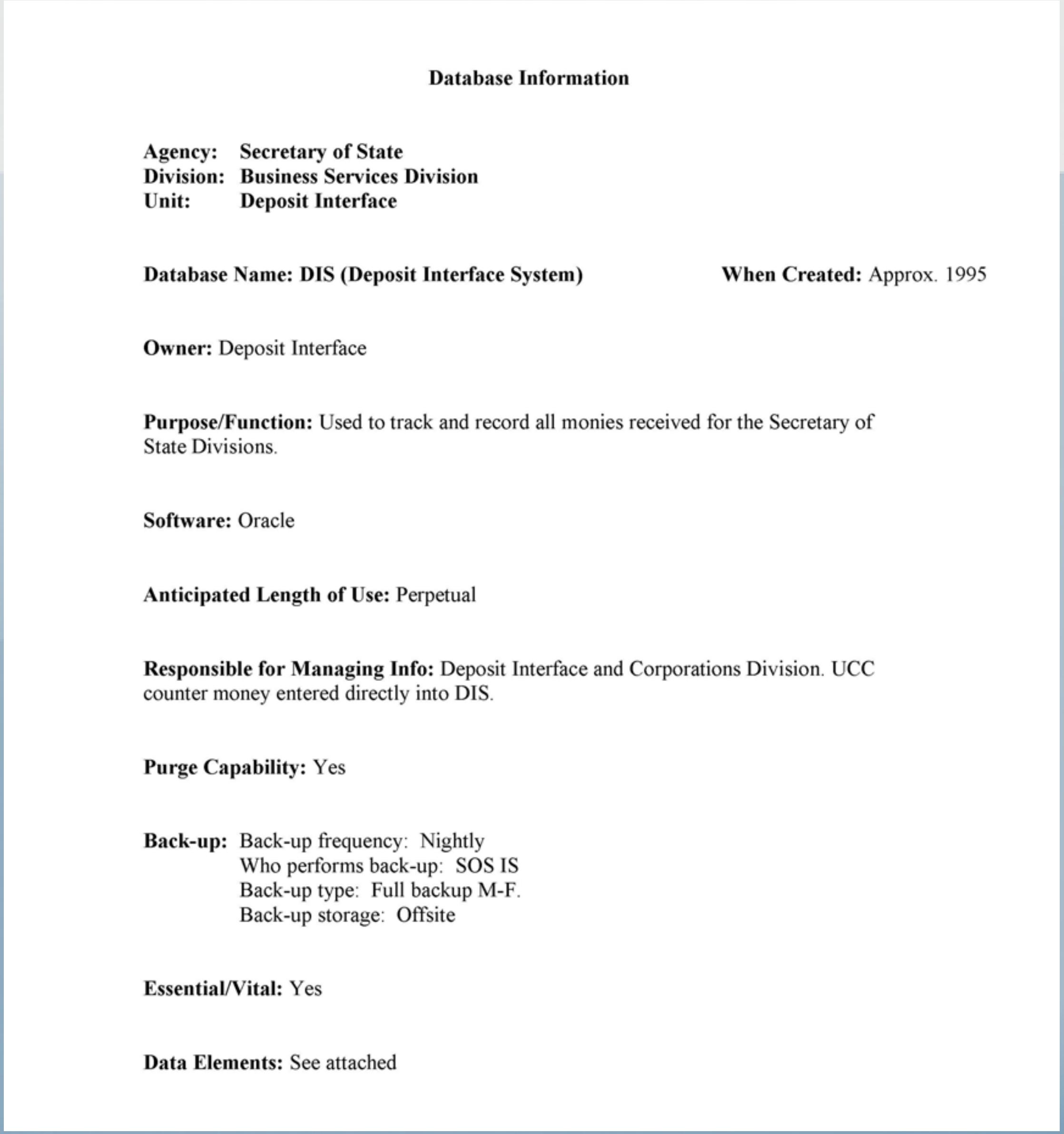
Beginnings

- Re-vamped how retention schedules were written—focusing on agency programs, their functions and the records created to document those functions—began including electronic records (1996)
- Inventoried agency policies re. E-records
- Inventoried all agency databases



Database Information

Agency: **Secretary of State**
Division: **Business Services Division**
Unit: **Deposit Interface**

Database Name: DIS (Deposit Interface System) **When Created:** Approx. 1995

Owner: Deposit Interface

Purpose/Function: Used to track and record all monies received for the Secretary of State Divisions.

Software: Oracle

Anticipated Length of Use: Perpetual

Responsible for Managing Info: Deposit Interface and Corporations Division. UCC counter money entered directly into DIS.

Purge Capability: Yes

Back-up: Back-up frequency: Nightly
Who performs back-up: SOS IS
Back-up type: Full backup M-F.
Back-up storage: Offsite

Essential/Vital: Yes

Data Elements: See attached

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Results

Limited at best – a few agencies chose to actively write policies & procedures and to develop systems to manage their electronic records. Most agencies chose to see the need for any management as moot since “storage is cheap.”

“The Opportunity”

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Background

“‘Public record’ includes, but is not limited to, a document, book, paper, photograph, file, sound recording or machine readable electronic record, regardless of physical form or characteristics, made, received, filed or recorded in pursuance of law or in connection with the transaction of public business, whether or not confidential or restricted in use.” - ORS 192.005 (5)

“The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly.” - ORS 192.620

The purpose of ORS 192.005 to 192.170 and 357.805 to 357.895 is to provide direction for the retention or destruction of public records in Oregon” – ORS 192.001 (2)

SAIF

State Accident Insurance Fund (SAIF)

January 2000 - Oregonians for Sound Economic Policy, Inc. (OSEP) made a Public Records Request

2001 – OSEP made an additional request and this time included e-mail messages as part of the request

SAIF (con't)

Kathy Keene, President of SAIF

- Circumvented most of the request, and
- Declared that all of her e-mail was ephemeral, and
- Ordered that all of her e-mail be deleted

SAIF (con’t)

Enter Judge Paul Lipscomb

> “By its own terms the State Archives policy precluded the continued destruction of any responsive document of any kind after the original OSEP records request of January 2000…”

SAIF (con’t)

In addition, Judge Lipscomb ruled…

> “…Ms. Keene, however, continued to rely on her own personal definition of ‘ephemeral’ to justify her failure to keep or produce virtually any documents related to SAIF’s outside consultants right up until her eventual departure in December 2003.”

SAIF (con't)

Costs to SAIF

- SAIF fined $1 million for contempt of court **(Actual = $800,000)**
- Additional daily fines until SAIF found in compliance
- Additional costs for third party intervention (i.e. Archives, attorneys, etc.) **Approx. $1.7 million**

Total Cost to SAIF = $2.5 million

“SAIF” Consequences

State Agencies

- Panic Mode

Local Government

- Worked with Archives on developing Training -- Video & Manual

Next Steps

- Change behavior and viewpoint
- Create an environment of accountability
- Give agencies the tools necessary to accomplish this

Our Mantra

E-Records Policy

- Core Elements of a Good Policy
  - ✓Appropriate Use Statement
  - ✓Access to E-mail Accounts and Privacy Notice
  - ✓Retention of E-mail Messages
  - ✓Policy Awareness
  - ✓Training
  - ✓Compliance

The Approach

Local Government

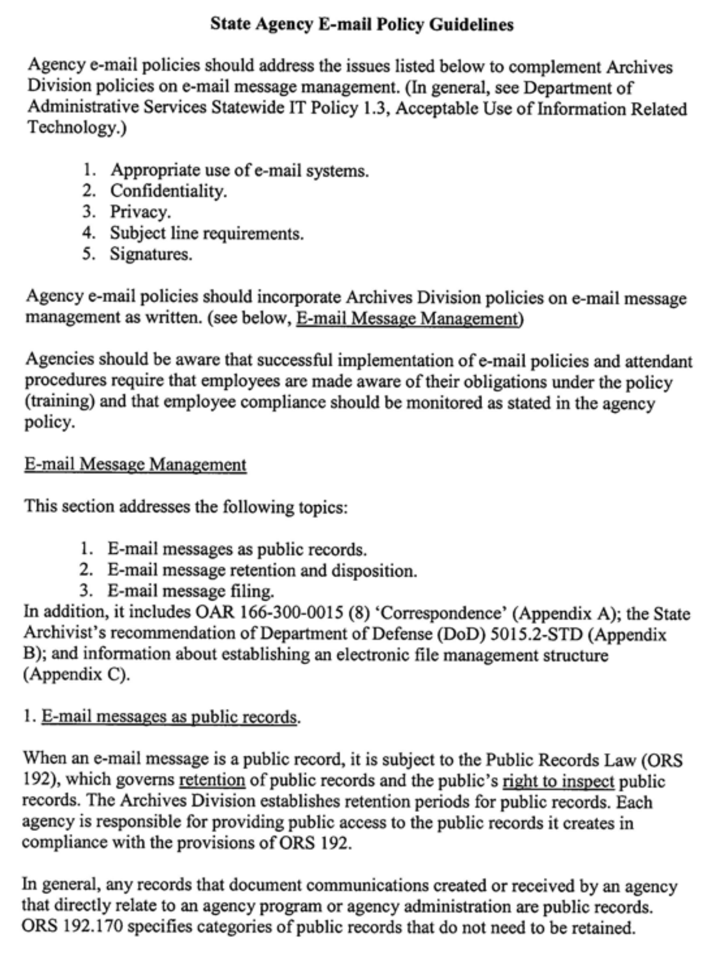
- Write a comprehensive e-mail management manual complete with quizzes, case files, and templates
- Create a video as a lure to manual
- Use e-mail management as a springboard to managing all electronic records

The Approach
State Government

- Directive
  - Agency-wide implementation with direct leadership support
- Function-based
  - Records filed based on functions (programs) and activities of agency, not organizational structure
- Technology-independent
  - Emphasis on developing a file structure
- Compliance-oriented
  - Use of system monitored

State Government

Give agencies guidelines for writing effective policies



State Agency E-mail Policy Guidelines

Agency e-mail policies should address the issues listed below to complement Archives Division policies on e-mail message management. (In general, see Department of Administrative Services Statewide IT Policy 1.3, Acceptable Use of Information Related Technology.)

1. Appropriate use of e-mail systems.
2. Confidentiality.
3. Privacy.
4. Subject line requirements.
5. Signatures.

Agency e-mail policies should incorporate Archives Division policies on e-mail message management as written. (see below, E-mail Message Management)

Agencies should be aware that successful implementation of e-mail policies and attendant procedures require that employees are made aware of their obligations under the policy (training) and that employee compliance should be monitored as stated in the agency policy.

E-mail Message Management

This section addresses the following topics:

1. E-mail messages as public records.
2. E-mail message retention and disposition.
3. E-mail message filing.

In addition, it includes OAR 166-300-0015 (8) 'Correspondence' (Appendix A); the State Archivist's recommendation of Department of Defense (DoD) 5015.2-STD (Appendix B); and information about establishing an electronic file management structure (Appendix C).

1. E-mail messages as public records.

When an e-mail message is a public record, it is subject to the Public Records Law (ORS 192), which governs retention of public records and the public's right to inspect public records. The Archives Division establishes retention periods for public records. Each agency is responsible for providing public access to the public records it creates in compliance with the provisions of ORS 192.

In general, any records that document communications created or received by an agency that directly relate to an agency program or agency administration are public records. ORS 192.170 specifies categories of public records that do not need to be retained.

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State Government

Establishing a filing system for all electronic records including e-mail messages

Establishing that system backups are not an acceptable means of managing electronic records

State Archivist recommends use of an Electronic Records Management System (ERMS) certified to be compliant with DoD 5015.2-STD

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Benefits of a File Structure

- Ease of access use, and retention of agency records
- File naming conventions standardize access
- Simple structure eases use
- File system tied to records retention schedule
- Technology independent

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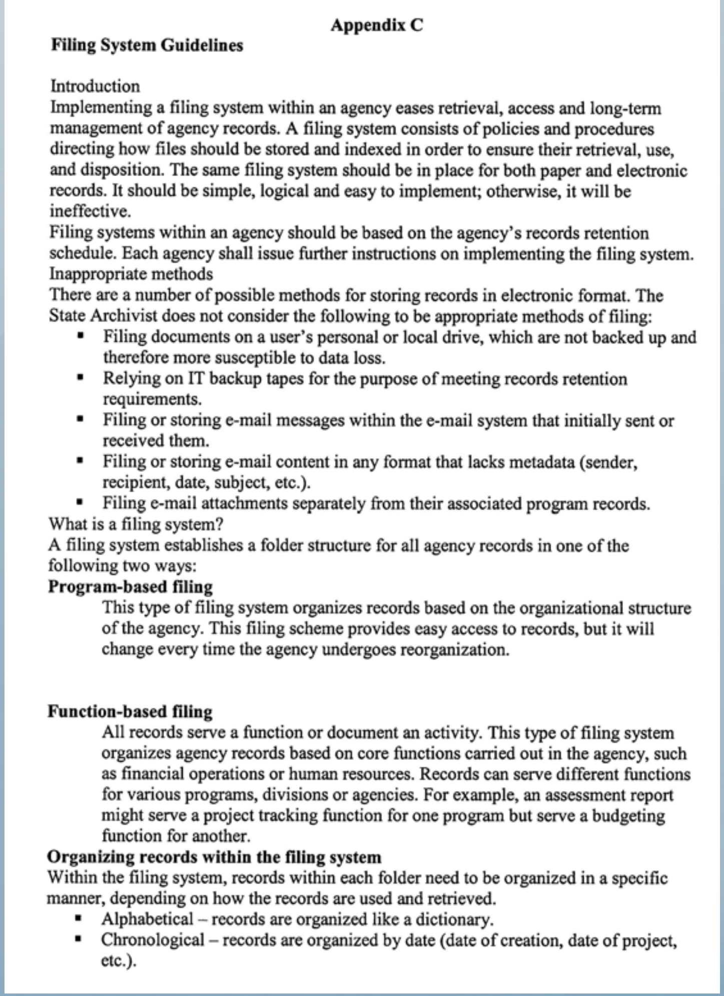

Appendix C

Filing System Guidelines

Introduction

Implementing a filing system within an agency eases retrieval, access and long-term management of agency records. A filing system consists of policies and procedures directing how files should be stored and indexed in order to ensure their retrieval, use, and disposition. The same filing system should be in place for both paper and electronic records. It should be simple, logical and easy to implement; otherwise, it will be ineffective.

Filing systems within an agency should be based on the agency's records retention schedule. Each agency shall issue further instructions on implementing the filing system.

Inappropriate methods

There are a number of possible methods for storing records in electronic format. The State Archivist does not consider the following to be appropriate methods of filing:

- Filing documents on a user's personal or local drive, which are not backed up and therefore more susceptible to data loss.
- Relying on IT backup tapes for the purpose of meeting records retention requirements.
- Filing or storing e-mail messages within the e-mail system that initially sent or received them.
- Filing or storing e-mail content in any format that lacks metadata (sender, recipient, date, subject, etc.).
- Filing e-mail attachments separately from their associated program records.

What is a filing system?

A filing system establishes a folder structure for all agency records in one of the following two ways:

Program-based filing

This type of filing system organizes records based on the organizational structure of the agency. This filing scheme provides easy access to records, but it will change every time the agency undergoes reorganization.

Function-based filing

All records serve a function or document an activity. This type of filing system organizes agency records based on core functions carried out in the agency, such as financial operations or human resources. Records can serve different functions for various programs, divisions or agencies. For example, an assessment report might serve a project tracking function for one program but serve a budgeting function for another.

Organizing records within the filing system

Within the filing system, records within each folder need to be organized in a specific manner, depending on how the records are used and retrieved.

- Alphabetical – records are organized like a dictionary.
- Chronological – records are organized by date (date of creation, date of project, etc.).

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Barcode_temp
excell forms
EXCEL DOCS
destruction letters
deaccession letters
FORMS
labels
destructions
RC PICTURES
Mid Town Storage
RC UPDATE
Records Center Construction

time sheets
Misc Letters
RC Guide
My Pictures
transmittal letters
Security Depository
Master List
Mark pos. review
PERSupdate
map
Archives locator
Assessment Jan28-98
Conversion
Evac Route 1
Evac Route 2

Garten Month Dest
locations available Old
locations available
Main Records Center
Pos.Rev.Questionnaire
RC LOANS 1994-98
RC LOANS 1999
RC LOANS 2000
RC LOANS 2001

RC LOANS 2002
RC LOANS 2003
RC LOANS 2004
RC LOANS 2005

Before

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State Government

- **Special Projects**
  - Barcode
  - Records Center Construction
    - RC PICTURES
      - My Pictures
    - Mid Town Storage
- **Deaccessions**
  - destruction letters
  - deaccession letters
  - destructions
    - Garten Month Dest

- **Inventory Control**
  - RC UPDATE
    - Main Records Center
    - Master List
    - locations available Old
    - locations available
  - RC LOANS
    - RC LOANS 1994-98
    - RC LOANS 1999
    - RC LOANS 2000
    - RC LOANS 2001
    - RC LOANS 2002
    - RC LOANS 2003
    - RC LOANS 2004
    - RC LOANS 2005
  - transmittal letters
  - EXCEL DOCS

- Administrative
  - Budget
    - Assessment Jan28-98
  - Forms
    - labels
  - Personnel
    - Mark pos. review
    - Pos.Rev.Questionnaire
    - time sheets
  - RC Guide
    - Evac Route 1
    - Evac Route 2
    - map

After

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State Government

Schedule meetings with each agency to begin implementation

Conclusion

E-Records Management

- Requires a change in agency/employee behavior
- Requires the development of policies and procedures relating to appropriate use and management of e-records
- Implement a systematic filing system
- Train employees on implementing the procedures
- Continuously monitor compliance

For More Information…

Archives Division
Information Resource Management Unit

Phone: (503) 373-0701 ext. 246
E-mail: mary.e.herkert@state.or.us
Webpage: http://arcweb.sos.state.or.us